

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2450 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

and

MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

GENERAL MANAGER,GIDC

Versus

RAMANBHAI RANCHODBHAI DESAI

Appearance:

NANAVATI & NANAVATI for Petitioner

MR GM AMIN for Respondent No. 1

MR HL JANI, AGP for respondent no.2

CORAM : MR.JUSTICE J.M.PANCHAL and

MR.JUSTICE R.P.DHOLAKIA

Date of decision: 23/07/1999

ORAL JUDGEMENT : (Per J.M. Panchal, J.)

Admitted. Mr.G.M. Amin, learned counsel waives service of notice on behalf of respondent no.1 and Mr.H.L. Jani, learned AGP waives service of notice on behalf of respondent no.2. At the request of the learned advocates for the parties the Appeal is taken up for

final hearing today.

2. By means of filing this Appeal under sec.54 of the Land Acquisition Act, 1894 ("the Act" for short) read with sec.96 of the Code of Civil Procedure, 1908, the Gujarat Industrial Development Corporation has challenged legality of the judgment and award dated January 1, 1997 rendered by the learned Extra Assistant Judge, Godhra, District Panchmahals in the Land Acquisition Reference Case No.1231 of 1990.

3. A proposal was received by the Government to acquire survey no.2391 situate at the outskirts of village Kanjari, Taluka Halol, District Panchmahal for the public purpose of development of Halol Industrial Complex. On scrutiny of the said proposal the State Government was satisfied that the said land was likely to be needed for the public purpose of development of Halol Industrial Complex. Therefore, a Notification under sec.4(1) of the Act was issued which was published in the Government Gazette on September 30, 1988. The land owner was served with the notice and he had filed objections against the proposed acquisition. After considering his objections necessary report was submitted by the Land Acquisition Officer to the State Government as contemplated by sec.5A(2) of the Act. On consideration of the said report, the State Government was satisfied that the land specified in the Notification published under sec.4(1) of the Act was needed for public purpose of development of Halol Industrial Complex. Accordingly, a declaration under sec.6 of the Act was made which was also published in the Government Gazette. The owner of the land was thereafter served with the notice for determination of the compensation. Having regard to the material placed before him the Land Acquisition Officer by his award dated September 19, 1990 offered compensation to respondent no.1 at the rate of Rs.4.50 ps. per sq. meter. Respondent no.1 was of the opinion that the offer of compensation made by the Land Acquisition Officer was inadequate. Therefore, he made an application to the Land Acquisition Officer requiring him to refer the matter to the Court for determination of appropriate compensation. Accordingly, a reference was made to the District Court, Panchmahal, which was numbered as Land Acquisition Reference Case No.1231 of 1990. In the Reference Application it was pleaded by respondent no.1 that the land acquired was highly fertile and having regard to the development which had taken place near the acquired land he should have been paid compensation at the rate of Rs.50.00 per sq. meter. On behalf of the acquiring authorities a reply was filed at

exh.12 controverting the averments made in the Reference Application. It was, inter alia, pleaded therein that the compensation determined by the Land Acquisition Officer was just as well as adequate and therefore, the reference application should be rejected.

4. Upon rival assertions of the parties, necessary issues for determination were raised by the reference court at exh.13. The respondent no.1 examined himself at exh.17 in order to substantiate the claim advanced in the reference application. He deposed before the court that the land acquired was adjacent to the road and there were factories as well as industries nearby the road. During the course of recording of his evidence he produced previous order of the reference court rendered in the Land Acquisition References Nos.305 to 308; 310 to 314; & 316 to 329 of 1989 rendered on January 4, 1992. On appreciation of the evidence led by the parties, the reference court deduced that the previous award was relevant as well as comparable for the purpose of determining the market value of the land acquired in this case. In the ultimate analysis the reference court has held that in all respondent no.1 is entitled to compensation at the rate of Rs.17.50 per sq. meter by the impugned award giving rise to the present appeal.

5. Mr.Devang Nanavati, learned counsel for the appellant submitted that the market value determined by the reference court is exorbitant as well as contrary to the evidence on record and therefore, the impugned award should be set aside. It was claimed that the previous award of the reference court was not relevant for the purpose of determining the market value of the land acquired in this case and therefore, the same should not have been made basis for determining the market value of the acquired land. The learned counsel emphasised that enhancement of compensation in favour of respondent no.1 was not justified at all and therefore, the appeal should be allowed.

6. Mr.H.L. Jani, learned AGP also submitted that no cogent evidence was led by respondent no.1 in support of the claim for enhancement of compensation and therefore, the impugned award should be set aside, whereas Mr. G.M. Amin, learned counsel for respondent no.1 pleaded that the previous award of the reference court related to lands of this very village and as the same was relevant the reference court was justified in placing reliance on it for the purpose of determination of the market value of the land acquired in this case. The learned counsel for respondent no.1 stressed that a just award has been

passed by the reference court and therefore, the appeal filed by the acquiring body should be dismissed.

7. We have heard the learned counsel for the parties. We have also taken into consideration the evidence produced by the learned counsel for the parties as well as the previous award of the reference court which was produced before the reference court at exh.16. It is relevant to notice that respondent no.1 in his deposition, which was recorded at exh.17 has, while producing the previous award of the reference court, clearly stated that the land acquired previously was similar to his land. It is well settled that the award passed by the court in respect of the land similarly situated and in the vicinity of the acquired land, near about the same time when sec.4 Notification was issued can be taken into consideration for the purpose of determining the market value of the land acquired subsequently. The previous award produced by respondent no.1 at exh.16 indicates that the agricultural land of village Kanjari, Taluka Halol, District Panchmahal were acquired pursuant to the publication of preliminary notification under sec.4(1) of the Act on September 11, 1986, wherein the Land Acquisition Officer by his award dated March 20, 1989 had offered compensation to the claimants at the rate of Rs.3 and Rs.3.50 per sq. meter for those lands. On reference being made the reference court enhanced the compensation to Rs.16.00 and Rs.16.50 per sq. meter by award dated January 4, 1992. Para 12 of the award which is impugned in the present appeal makes it evident that the said award has become final between the parties. In the present case, the Notification under sec.4(1) of the Act was published on September 30, 1988, but the reference court has not granted any rise in the price of the land to which the claimants would have been entitled to in view of the gap of time between the two notifications published under sec.4(1) of the Act. In our view, the reference court was justified in placing reliance on the previous award while determining the compensation of the land acquired in this case and the appellant has failed to point out that any illegality is committed by the reference court in placing reliance on the previous award. On overall view of the matter, we are satisfied that determination of compensation is neither exorbitant nor excessive so as to call for interference by this Court in the present appeal. The appeal, therefore, has no substance and deserves to be dismissed.

8. For the foregoing reasons, the appeal fails and is dismissed. There shall be no order as to costs.

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